

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

MCC MORTGAGE LP, a Delaware
limited partnership,

Plaintiff,

Civil No. 10-191 (RHK-JJK)

v.

ORDER

OFFICE DEPOT, INC., a Delaware
corporation,

Defendant.

Having considered the parties' Stipulated and Joint Motion, IT IS HEREBY ORDERED that this Court's Order dated May 10, 2010 (Doc. No. 38), dismissing all claims WITH PREJUDICE should be and hereby is VACATED. Instead, and by stipulation of the parties, all of Plaintiff MCC Mortgage LP's claims in this case, and all of Defendant Office Depot, Inc.'s Counterclaims in this case, are hereby and immediately DISMISSED WITHOUT PREJUDICE.

Each side shall bear its own costs and fees. This is without prejudice to either party's right to recover fees and costs incurred in this matter if suit is renewed to the extent they could have been recovered if this matter had not been dismissed.

Dated: May 13, 2010

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge